

Burlington Planning Commission

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Burlington Planning Commission

Regular Meeting

Tuesday, May 10, 2016 – 6:30-8:00 P.M.

Conference Room #12, Ground Floor, City Hall, 149 Church Street

AGENDA

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Public Forum - Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair

IV. Report of the Director

V. Proposed CDO Amendment: 15 Year Statute of Limitations (30 min)

The Commission will discuss the proposed amendment regarding the 15 Year Statute of Limitations. Information related to this proposed amendment is included on pages 3-5 of the agenda.

VI. Proposed CDO Amendment- Fletcher Place Rezoning (20 min)

The Commission will discuss a proposed map change to rezone properties along Fletcher Place from Institutional to Residential Medium Density (RM). Maps showing two options for rezoning parcels to RM are included in the agenda on pages 6-7.

VII. Proposed CDO Amendment- Off-site Parking (20 min)

The Commission will discuss a proposed amendment to the CDO regarding off-site parking provisions. The purpose of the amendment is to clarify existing provisions for off-site parking, and to address the shared use of parking facilities after-hours and during weekends. Information related to this proposed amendment is included on pages 8-12 of the agenda.

VIII. Proposed CDO Amendment- Downtown Mixed Use Core Overlay (10 min)

The Commission will receive a brief update on Council's May 2, 2016 approval of the Predevelopment Agreement for the Burlington Town Center, and an overview of the proposed CDO Amendment to establish a Downtown Mixed-Use Core overlay. The purpose of this amendment is to facilitate the redevelopment of the Burlington Town Center and help the City to implement many of the central goals and objectives found in the

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planBTV: Downtown and Waterfront Master Plan. Staff will present the draft ordinance to the Commission in anticipation of discussion at the May 24, 2016 meeting. A summary of this proposed amendment is included on pages 13-15 of the agenda and a preliminary draft of the proposed ordinance is included on pages 16-29.

Commissioners who wish to review recent presentations regarding the project can do so via the City's website. The Predevelopment Agreement and other supporting materials are available online here:

<https://www.burlingtonvt.gov/CEDO/BTV-Mall-Redevelopment-Process>

IX. Committee Reports

X. Commissioner Items

XI. Minutes/Communications

The Commission will review approve minutes from the April 26, 2016 meeting which are provided on pages 30-34 of the agenda packet.

XII. Adjourn

Section 2.7.11 Enforcement Period of Limitations

Pursuant to 24 V.S.A. §4454 and the terms of this section, the Administrative Officer shall not institute a zoning enforcement action under Section 2.7.7 where the alleged violation first occurred more than 15 years ago, has continued, and the violation was known to the City. This period of limitations pertains to all zoning violations, including but not limited to “use” violations (except those violations identified in subsection (b)(7) and (b)(8) below) so long as the violation has been continuous for 15 years or more, the City has known of the violation for at least 15 years and not taken action to correct it, and the violation is not a matter of health or safety. A zoning violation that meets the requirements of this section will be considered “stabilized.” The use, dimension, structure, function, or other condition that causes the property to be in violation of current zoning regulations will be referred to throughout this section as “the violation.”

(a) Burden of Proof

- (1) The burden is on the property owner to demonstrate the first two elements: that the violation has occurred continuously for 15 years or more and that the violation was known to the City for at least 15 years without corrective action.
- (2) To prove that a violation was known to the City, the property owner must be able to point to written city records within the City’s Department of Planning and Zoning, Code Enforcement Office, Inspection Services Division of the Department of Public Works or Assessor’s Office that show that the referenced City departments knew that the condition underlying the violation existed at least 15 years ago and the City has taken no action to correct the violation. If City records in the referenced departments conflict, the Administrative Officer shall determine whether the City knew of the condition based upon the preponderance of the evidence.
- (3) If the City identifies a health or safety concern with the violation, the burden is on the property owner to demonstrate that the violation does not violate any City health or safety standards.

(b) Determination and Effect

- (1) Property owners may seek a written determination from the Administrative Officer that a property is in a stabilized status if the property owner can meet the above burden. This determination, while not a permit, shall be processed the same as a request for administrative approval, including but not limited to notice, appeal rights and notice in the land records.
- (2) A stabilized status for a violation, whether use, dimensional or otherwise, is not a pre-existing legal non-conformity (also known as “grandfathered”).
- (3) No change, alteration, or enlargement that would otherwise require a zoning permit shall be permitted for stabilized violations.

- (4) If the violation is discontinued for more than ninety (90) days, it has ended. The violation is no longer considered “stabilized,” and the violation may not be reactivated or re-occur. An extension to this time limit may be granted by the Administrative Officer if sufficient documented evidence is presented to show that there was a continuous good faith effort to maintain the condition underlying the violation, such as repair and maintenance being done to the property that caused a temporary discontinuance of use. If an occurrence or event destroys at least 50% of a stabilized structure, in the judgment of the city’s building inspector, no reconstruction of the stabilized structure shall be permitted, except to become a conforming use, structure, or lot. If the structure is a pre-existing legal non-conformity, the provisions of Article 5, Part 3 apply.
- (5) No violation that has been determined to be stabilized may be used to count towards the requirements for a new zoning permit ~~(i.e., a “stabilized” parking space, while it will not be enforced, is not legal and cannot be used toward the parking requirements for a new zoning permit).~~
- (6) Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by the city under any other authority it may have, including, but not limited to its authority under 24 V.S.A. §4470(b) pertaining to DRB and court decisions and/or Title 18 of the Vermont Statutes Annotated (abatement or removal of public health risks or hazards). If a property does not comply with any related health and safety requirement, it may not claim any stabilized status and shall be required to come into full conformance.
- (7) Enforcement of an occupancy violation for occupying a dwelling unit in a residential district inconsistent with the “family” definition under Section 4.4.5(d)(5)(C) is exempt from this period of limitations and, therefore, may not be stabilized. Unless the inconsistent occupancy is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.
- (8) Except as limited by 24 V.S.A. §4454, as interpreted by the courts, enforcement of a parking violation is exempt from this period of limitations and may not be stabilized. Unless the parking is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.

Section 2.7.11~~2~~ Administrative Appeal

As written.

PART 3: NON-CONFORMITIES

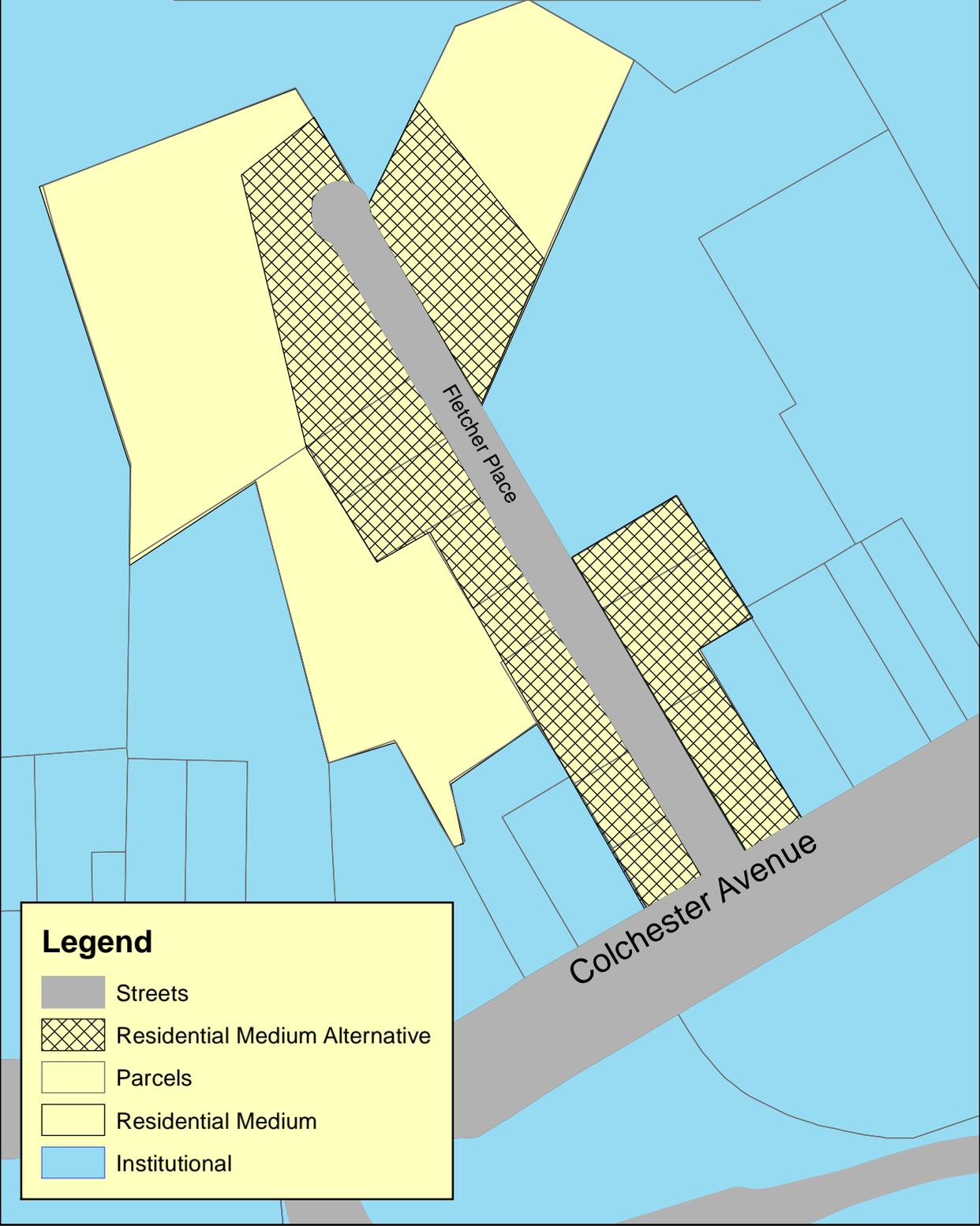
Sec. 5.3.1 Purpose

These regulations are enacted for the purpose of governing all aspects of nonconformity, regardless of whether it is a use, a structure or a lot. As defined under Article 13, nonconformity means a use, structure or lot that was legal at the time it was constructed or laid out, but would not be lawful under the requirements of this ordinance as currently in effect. This Part will also address “Bianchi-controlled Situations”, in which a zoning violation may not subject to enforcement under the standards set forth by the Vermont Supreme Court in the case entitled *Bianchi v. Lorentz* and later codified in 24 VSA Sec. 4454. In combination, †These standards are intended to establish the property rights of individuals and organizations in a manner consistent with the overall goals of zoning and to promote the City's general health, safety, and welfare.

Sec. 5.3.2 “Bianchi” controlled uses, structures, and lots.

~~Although not subject to enforcement action pursuant to Article 2, uses, structures, and lots which are deemed to be controlled by the *Bianchi* decision, and the subsequent enactment of 24 VSA Sec. 4454, shall be considered violations that are not considered legal to any extent and shall in no event be granted the consideration or allowances of nonconforming structures, uses, and lots. Thus, no change, alteration, enlargement, and reestablishment after discontinuance for more than sixty (60) days or reconstruction after an occurrence or event which destroys at least 50% of the structure in the judgment of the city's building inspector shall be permitted, except to a conforming use, structure, or lot.~~

Comprehensive Development Ordinance
Fletcher Place Rezone
Zoning Map Revision - Excerpt
Residential - Medium Density District



Legend

- Streets
- Residential Medium Alternative
- Parcels
- Residential Medium
- Institutional



Comprehensive Development Ordinance
Fletcher Place Rezone
Zoning Map Revision - Excerpt
Residential - Medium Density District



Legend

-  Residential Medium Alternative
-  Parcels



Department of Planning and Zoning

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Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Planning Commission
FROM: Scott Gustin
DATE: April 8, 2016
RE: Off-Site Parking Amendment to CDO

The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens provision for off-site parking used for required parking. Reference to the design review standards of Article 6 is also inserted.

Following an initial approval by the Planning Commission Ordinance Committee, the amendment was further revised to include provision that directly addresses shared use of parking facilities after-hours and during weekends. City policy encourages shared use of existing parking areas, including those on private property (i.e. such as office use during the day, but public parking during nights and weekends). Present zoning standards arguably preclude doing so. This amendment has been expanded to include additional provision for parking management plans to enable after-hours shared use of parking facilities.

On April 7, 2016, the Ordinance Committee voted to send this amendment along to the full Planning Commission for consideration. Their suggested revisions are included in the language below.

Proposed CDO language is below. New language is underlined red, and deleted language is ~~crossed out~~.

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land. The off-site parking area shall be within the same zone as the use it serves or is in a zone that allows parking lots or parking garages as primary uses. Parking that serves any use located outside a residential zone shall not be located within a residential zone. Off-site parking spaces shall be subject to the site plan design standards of Article 6: Part 2. The maximum parking limitations of Section 8.1.9 apply. Off-site parking facilities shall be as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.

3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the development review board. The right to use the off-site parking to meet the minimum parking requirements of Sec. 8.1.8 must be guaranteed for the duration of the use as evidenced by a deed or ~~lease, easement, or similar written instrument~~ as may be approved by the City Attorney and recorded in the Burlington land records. Use of off-site parking for parking spaces in excess of the minimum parking requirements of Sec. 8.1.8 may be secured by lease or similar written instrument.

(b) Downtown Street Level Setback:

As written.

(c) Front Yard Parking Restricted:

As written.

(d) Shared Parking in Neighborhood Parking Districts:

As written.

(e) Single Story Structures in Shared Use Districts:

As written.

(f) Joint Use of Facilities:

As written.

(g) Availability of Facilities:

As written.

(h) Compact Car Parking:

As written.

Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

(a) Parking Waivers

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:
 - 1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
 - 2. Anticipated parking demand by time of day and/or demand by use;
 - 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
 - 4. Availability and frequency of public transit service within a distance of 800-feet.
 - 5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
 - 6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.
- (d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:
 - 1. A telecommuting program;
 - 2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;
 - 3. Implementation of a car-share program;
 - 4. Development or use of a system using offsite parking and/or shuttles; and,
 - 5. Implementation of public transit subscriptions for employees.

Comment [SG1]: Change (a) to 1, etc.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

(b) Shared Parking for Off-Site Use

Onsite parking spaces may be made available for use by off-site users subject to review and approval of a Parking Management Plan by the DRB.

The Parking Management Plan must include the following:

- 1. A calculation of the parking spaces required pursuant to Table 8.1.8-1 and a calculation of those parking spaces to be shared for off-site parking use.

2. Information specifying the actual onsite demand for required parking by day, time of day, and by use and also information specifying when and how much parking would be made available to off-site users.
3. A narrative that outlines how the proposed parking management plan will allow for shared use of required parking spaces with off-site users; how it will enable continued availability of required parking spaces pursuant to Table 8.1.8-1 while also affording off-site parking use of those spaces.

The Parking Management Plan must demonstrate to the satisfaction of the DRB that making spaces available to off-site users does not negatively affect their availability for onsite users to park due to either:

1. There being an excess of onsite spaces beyond that necessary to satisfy the requirements of Sec 8.1.8; and/or,
2. The spaces are to be made available during off-peak hours of the onsite and/or required users.

Parking spaces being made available to off-site users may be made available:

- Either with or without a fee;
- For transient use by the general public; and/or,
- By lease, provided the term of any lease does not exceed one (1) year.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

Sec. 13.1.2 Definitions.

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

A-O, As written.

Park: Any area designated by the City as a park pursuant to Section 22-1 of the Code of Ordinances of the City of Burlington, Vermont.

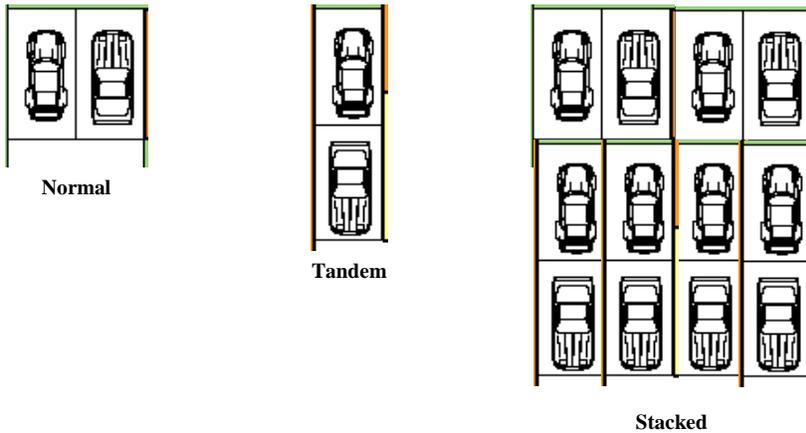
Parking Garage/Structure: A structure containing parking facilities, below or above grade.

Parking, Off-site: One or more parking spaces on one parcel of land providing parking spaces for a use on another parcel of land.

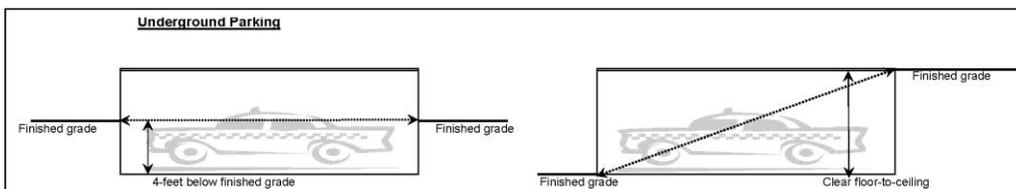
Parking, Surface/Lot: Parking facilities that are at grade and uncovered or not within a structure.

Parking, Stacked: The parking of more than two (2) cars in a parallel line, one behind the other.

Parking, Tandem: The parking of up to two (2) cars, one behind the other.



Parking, Underground: Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.



Continued as written.

Burlington Comprehensive Development Ordinance
PROPOSED Downtown Mixed Use Core Overlay

Purpose: The proposed amendment to the zoning ordinance is intended to facilitate new development in the downtown core, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 by the Burlington City Council to guide the future development and economic vitality of the downtown and waterfront area. The proposed zoning amendment will create an overlay district in the core of the downtown area to allow and encourage development of mixed use buildings, increased density, and enable taller building height without the necessity of a “bonus” from the DRB. It will also establish a number of urban design and building form requirements to ensure street-level activation and façade variation.

The proposed zoning amendment is intended to accomplish, without limitation, the following goals:

1. Enable the redevelopment of the Burlington Town Center at a scale and mass that could not otherwise be built under the City’s existing zoning regulations, consistent with the scale and mass described and depicted on Exhibits A and B of the Predevelopment Agreement to which this Exhibit D is attached.
2. Guarantee that many of the elements of the Burlington Town Center redevelopment project long identified as important to the City in the *planBTV: Downtown and Waterfront Master Plan*, and through the public discussion around the redevelopment of the Burlington Town Center site, are incorporated in any final project that may be proposed, specifically including:
 - activation of Bank and Cherry streets to offer a better pedestrian experience;
 - re-establish north-south connectivity for pedestrian, bicycles, and vehicles where possible;
 - redevelopment and co-operative operation of onsite parking facilities;
 - thoughtfully designed vertical expansion to add much desired retail, office, housing and other uses; and,
 - demonstrating stormwater mitigation pilot projects on both public and private property.

Key Elements:

- Creates a new Overlay District, known as the **Downtown Mixed Use Core (DMUC)** Overlay District (the “DMUC District”), within which greater development density and higher building heights, as well as expanded uses will be permitted.
 - The DMUC District will be limited in area consistent with the *planBTV: Downtown and Waterfront Master Plan* and Joint FBC Committee discussions regarding where additional height is acceptable and in accordance with all applicable laws regarding zoning to insure the new Overlay District achieves the desired goals of the City and benefits all the property owners that fall within the DMUC District.



- The DMUC District is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center. The DMUC District should support a diversity of residential, commercial, recreational, civic, hospitality, educational and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington’s downtown urban core.

The DMUC District will allow larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support a diverse mix of uses, to activate and enrich the streets and sidewalks for pedestrian activity, and to encourage mobility throughout the District and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

- New development in the DMUC District will be exempt from seeking building height bonuses from the DRB pursuant to BCDO Sec. 4.4.1 (d) 7; instead, the DMUC District will establish the following new, by-right height and massing limits and requirements:
 - 3 stories minimum, 14 stories not to exceed 160 ft. maximum overall height, with an allowed variation of 5% of the total allowable height (but no additional stories) to account for grade changes.
 - Maximum FAR of 9.5.
- New developments in the DMUC District will be exempt from the existing upper story setback requirement pursuant to BCDO Sec. 4.4.1 (d) 4 A; instead, consistent with the maximum height and FAR limitations of the DMUC District, new prescriptive design standards will be used to ensure good urban design, façade articulation and especially street activation, including but not limited to:

- Façade Articulation.
 - Finer-grained surface relief within the façade plane (use of material changes, balconies, belt courses, columns, lintels, etc.).
 - Creation of architectural bays to provide regular and strong vertical changes in the horizontal plane of a façade, particularly within the lower 3-5 stories.
 - Horizontal changes in the vertical plane of a façade (articulated base, step-backs of upper stores, and clearly defined top).
 - Street Activation at the ground floor.
 - Location, frequency and operability of primary entrances.
 - Proportion of and distance between voids (doors and windows).
 - Transparency of glazing.
 - Visual access within spaces.
 - Acceptable primary and accent façade materials.
-
- Projects within the DMUC District will be required to participate in the emerging downtown parking initiatives being developed under the newly adopted *Downtown Transportation and Parking Plan*, provided that private owners of parking lots or parking structures shall not be required to participate in any parking initiatives to the extent that such initiatives impose or result in any material obligation or cost to the such owners.
 - Mixed use projects within the DMUC District will be required to develop a Master Sign Plan subject to DRB approval, taking into account the nature of the uses featured within the District.
 - The zoning amendment to establish the DMUC District will also establish, by right, that projects subject to the DMUC District overlay that include property fronting Church Street may be improved such that the portion of any structure fronting Church St. does not exceed 4 stories, or a maximum height of 45 ft., provided that the overall height of such structures may be increased to the maximum height permitted within the zoning district so long as there is a 10-foot upper story setback for every 10-feet of height above 45 ft.
 - The zoning amendment to establish the DMUC District will expand the Official Map to include 60-ft. wide extensions of St. Paul Street and Pine Street between Cherry and Bank Streets.
 - The Zoning Amendment will include an amendment to the City's Official Map to re-establish St. Paul Street and Pine Street between Cherry and Bank streets as public streets, each with a right-of-way measuring sixty (60) feet in width, to accommodate pedestrians, bicycles and vehicles, substantially in accordance with the depiction of St. Paul Street and Pine Street on Exhibit B to the Predevelopment Agreement to which this Exhibit D is attached.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-16-?? – Downtown Mixed Use Core Overlay

As proposed by the Planning staff – May 4 2016.

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This amendment is to facilitate the redevelopment of the Burlington Town Center with higher density mixed use development in the core of the downtown, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 to guide the future development and economic vitality of the downtown and waterfront area. It creates an overlay district to encompass a 1-2 block area in the core of the downtown area to enable taller Building Height without the necessity of a “bonus” from the DRB. It also establishes a number of building form requirements to ensure street-level activation and façade variation.

Article 4: Zoning Maps and Districts, Part 2: Official Map

Sec. 4.2.1 Authority and Purpose

A map entitled “The Official Map of the City of Burlington” and as depicted on Map 2.2.1-1 below is hereby established pursuant to 24 VSA 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.

Map 4.2.1-1 Official Map of the City of Burlington (unchanged)

Sec. 4.2.2 Downtown and Waterfront Core Official Map Established

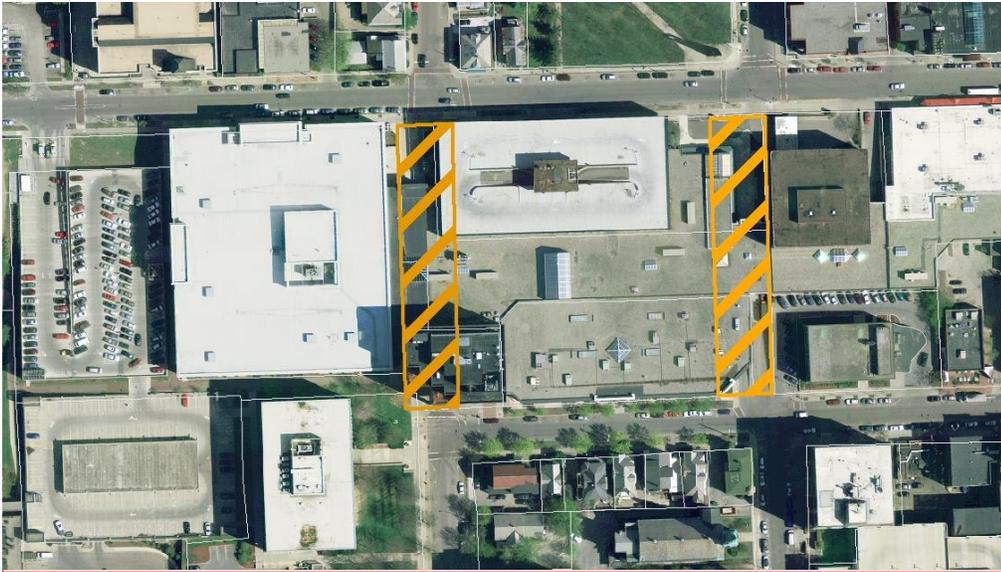
A map entitled “The Official Map of the Downtown and Waterfront Core” and as depicted on Map 2.2.2-1 below is established as part of the Official Map established above, ~~is to be dated as of the effective date hereof, is to be located in the department of zoning and planning and is incorporated herein by reference~~. The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

- (a) A pedestrian easement thirty (30) feet in width along the center line of Main Street extended to Lake Champlain west of the Union Station building;

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- (b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Champlain from Maple Street extended to College Street;
- (c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as “urban reserve” and formerly owned by the Central Vermont Railway;
- (d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;
- (e) The following existing streets remain: Maple and King Streets and as extended to Lake Champlain; Main Street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;
- (f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street; ~~and~~;
- (g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.
- (h) The re-establishment of St Paul Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles; and.
- (i) The re-establishment of Pine Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles.

Comment [DEW1]: This will ensure that the proposed north-south connectivity on Pine and St. Paul streets envisioned in planBTV is accomplished. The City will have 120-days to initiate proceedings to acquire any land within this area that may be proposed for new development. As proposed, the BTC will comply.



Comment [DEW2]: These proposed new ROW's are consistent with the BTC project as proposed

(temporary illustration of the proposed addition)

Map 4.2.2-1 ~~Official Map of the Downtown and Waterfront Core~~ *Waterfront Core Official Map*

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.2 Overlay Districts Established:

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. the land so encumbered Properties within an Overlay District may be used and altered-developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted in-as may be modified by the applicable overlay district. The following districts are established as overlay districts as further described in **Part 5** below:

- (a) A **Design Review Overlay (DR)** district;
- (b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:
 - UVM Medical Center Campus (ICC-UVMMC);
 - UVM Central Campus (ICC-UVM);
 - UVM Trinity Campus (ICC-UVMT)
 - UVM South of Main Street Campus (ICC-UVMS); and,
 - Champlain College (ICC-CC);
- (c) An **RH Density Bonus Overlay (RHDB)** district;

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(d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and,
- Special Flood Hazard Area;

(e) A **RL Larger Lot Overlay (RLLL)** district;

(f) A **Mouth of the River Overlay (MOR)** district; ~~and,~~

(g) A **Centennial Woods Overlay (CWO)** district; ~~and,~~

(h) A **Downtown Mixed Use Core (DMUC)** district.

Sec. 4.4.1 Downtown Mixed Use Districts

(d) **District Specific Regulations, 4. Building Height Setbacks**

A. - unchanged

B. **Church Street Buildings:**

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to ~~38 feet~~ **4-stories not to exceed 45-feet**. Any portion of a building ~~within 100 feet from the centerline of Church Street exceeding 45-feet~~ shall be set-back a minimum of ~~16~~ **10**-feet for every 10-feet of additional building height above ~~38~~ **45**-feet.

Comment [DEW3]: While outside of the proposed new overlay, this change is already envisioned as part of the currently proposed form-based code to provide better compatibility of building heights on Church Street. The BTC project as proposed will need its upper floors to be set back farther in order to comply

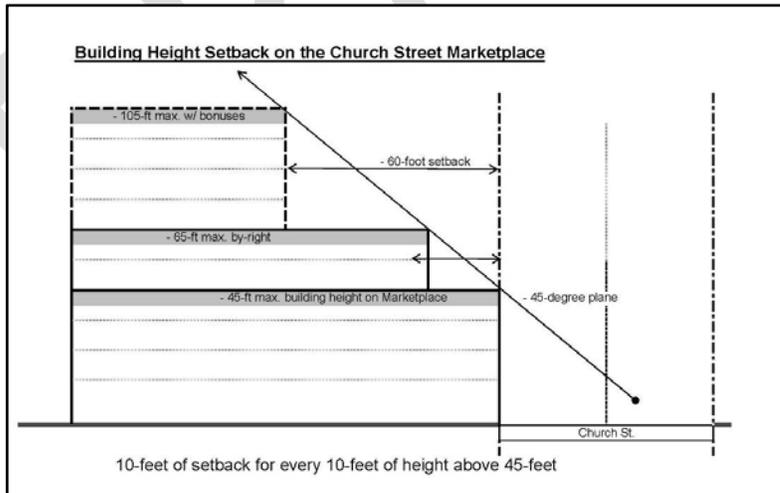


Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. - unchanged

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Sec. 4.5.8 Downtown Mixed Use Core Overlay (DMUC) District

(a) Purpose:

The Downtown Mixed Use Core Overlay (DMUC) district is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center. The area should support a diversity of residential, commercial, recreational, educational, civic, hospitality, and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington’s downtown urban core.

This overlay allows larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support the diverse mixed-uses, activate and enrich the street and sidewalk for pedestrian activity, and encourage mobility throughout the district and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

(b) Areas Covered:

The Downtown Mixed Use Core Overlay (DMUC) district includes those portions of the Mixed Use Downtown (D) District as delineated on [Map 4.5.8-1](#).



Map 4.5.8-1: Downtown Mixed Use Core Overlay (DMUC) district

Comment [DEW4]: Boundary of this area needs to consider existing and potential development in this area which has generally been supported in planBTV and by the Joint FBC Committee as the part of the downtown where greater height could be appropriate.

(c) District Specific Regulations: Downtown Mixed Use Core Overlay (DMUC) district:

1. Dimensional Standards:

The maximum Building height and mass shall be as prescribed in Table 4.5.8-1 below. Building height and mass in excess of 65-feet and 5.5 FAR shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.1 (d)7.

The Dimensional Standards within the DMUC Overlay District shall be as follows:

<u>Building Height</u>	3 stories min. 14 stories not to exceed 160-ft max
<u>FAR</u>	9.5 FAR total max per lot
<u>Floors 1-5</u>	100% of lot max.
<u>Floors 6-7</u>	75% of lot max.
<u>Floors 8-11</u>	55% of lot max.
<u>Floors 12+</u>	15, 000 sf max per individual floorplate
<u>Pervious Area¹</u>	10% min
<u>Setbacks:</u>	
<u>- Front</u>	0-ft min, 10-ft max.
<u>- Side/Rear</u>	0-ft min, 12-ft max.
<u>Occupied Build-to Zone²</u>	100%
<u>Ground Floor Height (floor to floor)</u>	14-ft min
<u>Arcades³</u>	10-ft clear depth min 14-ft clear height min

¹ Pervious Area is the area of a lot covered by surfaces or materials that allow for the movement or passage of water into soils below. Pervious areas include, but are not limited to, areas of a lot covered by soil/ mulch, vegetative matter, permeable pavers/pavement, bio-retention areas, or other materials that allow for the infiltration of at least the first inch (1”) of rainfall. For these purposes, green roofs that capture and attenuate at least the first inch (1”) of rainfall are also considered pervious area.

² Occupied Build-to Zone is the proportion of the linear distance between the maximum and minimum front setback along a front property line that must be occupied by a Building façade. In lieu of a Building façade, a streetscreen between 3.5 and 8 feet in height or active public use or activity (such as outdoor cafes) occupying no more than the lessor of 20 feet or 20% of the Build-to Zone may be included.

³ An Arcade is where only the ground floor level of the Building facade is set back from the front property line. The Building facade for the upper floors is at or near the front property line within the Build-to Zone, and is supported by a colonnade with habitable space above.

2. Urban Design Standards:

The following urban design standards shall apply to all Buildings in the DMUC Overlay, and the DRB shall make a final determination regarding strict compliance with these standards except as provided for in E below. These standards and requirements shall take

Comment [DEW5]: This is important to compliance with the Pre-DA

Comment [DEW6]: This is important to compliance with the Pre-DA

Comment [DEW7]: This is important to compliance with the Pre-DA

Comment [DEW8]: The gradual reduction on upper floors is done to ensure that taller buildings are tapered as they go taller. May also want to include a minimum separation between individual towers – 60’?

Comment [DEW9]: See footnote regarding Pervious Area as a preferred alternative to lot coverage limitations. BTC project is proposing ~36% (39,405 sf) of upper floor greenspace by comparison

Comment [DEW10]: These come directly out of the proposed form based code

Comment [DEW11]: These come directly out of the proposed form based code

Comment [DEW12]: These come directly out of the proposed form based code. The process to incorporate role of DRB in making a final determination is a hybrid of current process and FBC

precedence without limitation over any duplicative or conflicting provisions of Article 6, and compliance with Article 6 shall be presumed where a Building is in compliance with these design standards as determined by the DRB.

A. Overall Design: Proposed Buildings shall present an architecturally significant design as follows:

- i. Step backs, horizontal and vertical variation, selection of materials and other architectural design techniques are used to reinforce the street wall, create transitions from adjacent buildings of a smaller mass and height, and reduce the actual and perceived height and mass of the upper stories from the street level;
- ii. Proposed Buildings provide visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing or other architectural design techniques;
- iii. Upper story proportions of Buildings emphasize vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline, reinforce opportunities for establishing points of reference for visual orientation, and retain opportunities for a view of the sky between individual Building elements.

Comment [DEW13]: Pretty subjective and best place for DRB discretionary review to focus. Ultimately following standards provide some objective measure of satisfying these

B. Façade Articulation: All primary and secondary street-facing Building facades shall be articulated as follows:

- i. Building facades shall incorporate surface relief through the use of elements such as bay windows, cladding materials, columns, corner boards, cornices, door surrounds, moldings, piers, pilasters, sills, belt courses, sign bands, windows, balconies and/or other equivalent architectural features at least three (3) of which must either recess or project from the average plane of the facade by at least four (4) inches.
- ii. Buildings with facades between seventy-five (75) feet and one hundred and fifty (150) feet in width shall include vertical changes through the horizontal plane of the Façade by dividing the facade into a series of architectural and/or structural bays between six (6) feet and sixty-five (65) feet in width involving up to a minimum of 50% of the height of the façade.
- iii. Buildings with facades greater than one hundred and fifty (150) feet in width must include a more substantial change in the horizontal plane of the façade where for every one hundred and fifty (150) feet in facade width, one (1) or more architectural bay as required above must either recess or project by at least four (4) feet involving the full height of the façade from the average plane of the street wall portion of the facade. Such bays shall occur no closer than fifty (50) feet from the Buildings corner.
- iv. Required Building Height Setbacks pursuant to Sec 4.4.1 (d) 4 shall not be applicable. Instead, upper stories of any primary and secondary street-facing Building facades exceeding six (6) stories in height shall be setback as follows:
 - a. An upper story setback at least ten (10) feet from the primary plane of the façade below shall occur within the first 60-ft of Building height at either

Comment [DEW14]: Current BTC design doesn't meet this

Comment [DEW15]: Current BTC design doesn't meet this

the 3rd, 4th, or 5th story in order to provide a change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.

Comment [DEW16]: Current BTC design doesn't meet this on St. Paul and Pine,

b. For Building facades exceeding ten (10) stories in height a second upper story setback at least ten (10) feet from the primary plane of the façade below shall occur at either the 10th, 11th, or 12th story in order to provide another change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.

Comment [DEW17]: Current BTC design doesn't meet this on St. Paul and Pine,

c. Setbacks must be visually set off from the stories below by a balustrade, parapet, cornice and/or similar architectural feature, and are encouraged to be activated as an outdoor amenity space for Building occupants.

d. The upper stories beyond a setback may be visually differentiated from the stories below by a change in color, materials and/or pattern of fenestration in order to reduce the actual or perceived massing of the Building overall.

v. Where visible, the raised foundation or basement of a Building must be visually differentiated from the stories above by a horizontal expression line and change in color, material, and/or pattern of fenestration;

vi. The lower one to five stories of a Building must be visually differentiated from the stories above by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade; and,

vii. The top one to five stories of a Building must be visually differentiated from the stories below by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade

viii. The top of a Building must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the facade by at least six (6) inches to serve as an expression of the Buildings top.

C. Street Activation: All Buildings shall activate the street as follows:

i. Buildings shall have one or more principal entrances for pedestrians at street level that are clearly identified as such along the primary street frontage or at a corner where a corner lot.

ii. The linear distance along the primary street frontage between ground floor entries shall not exceed 60-feet, and such doors must be open and operable by residential occupants at all times and non-residential occupants and customers during business hours.

Comment [DEW18]: define

iii. Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance should be expressed vertically, and may have little or no horizontal expression required below any required upper story setback.

iv. Requirements regarding voids and the transparency of glazing in a primary and secondary street-facing Building facade shall be as follows:

	<u>Ground Floor</u>	<u>Upper Floors</u>
<u>Voids</u> <u>(rough openings for windows and doors per floor)</u>	<u>70% min. 80% of which shall be concentrated between 3-10 feet above the adjacent sidewalk</u>	<u>20% min</u>
<u>- Horizontal and vertical distance between voids</u>	<u>20' max.</u>	
<u>Transparency:</u> <u>- applicable to 80% of the glazing on each floor.</u>		
<u>- VLT - Visible Light Transmittance¹</u>	<u>60% min</u>	<u>40% min</u>
<u>- VLR - Visible Light Reflectance</u>	<u>15% max</u>	<u>15% max</u>

¹May be reduced to 50 and 30% respectively to meet the requirements of a High Performance Building Energy Code or equivalent program as determined by the DRB.

v. Street-facing, street-level windows must allow views into a ground story non-residential use for a depth of at least 3 feet for the first 4 feet above the level of the finished sidewalk in order to provide for a window display, and for a depth of at least 8 feet for the next 4 feet above the level of the finished sidewalk in order to provide a view into the interior of the space. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space). External security shutters are not permitted.

D. Materials:

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and protect the character of the downtown area.

i. Primary Materials: Not less than 80 percent of each street-facing Facade shall be constructed of primary materials comprised of high quality, durable, and natural materials. For Facades over 100 square feet, more than one primary material shall be used. Changes between primary materials must occur only at inside corners. The following are considered acceptable primary materials:

- a. Brick and tile masonry;
- b. Native stone;
- c. Wood – panels, clapboard or shingles;

- d. Glass curtain wall; and
 - e. Cementitious siding;
 - ii. Accent Materials: The following accent materials may make up no more than 20% of the surface area on each Façade. Accent materials are limited to:
 - a. Pre-cast masonry (for trim and cornice elements only);
 - b. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);
 - c. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);
 - d. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);
 - e. Split-faced block (for piers, foundation walls and chimneys only); and
 - f. Glass block.
 - iii. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the Planning Director after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.
 - iv. Other:
 - a. The use of recycled and/or regionally-sourced materials is strongly encouraged.
 - b. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.
 - c. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.
 - E. Alternative Compliance: Relief from any non-numerical standard above, and any numerical standard with the exception of building height and FAR by no more than 20% of such requirement, may be granted by the Development Review Board. In granting such relief, the DRB shall find that:
 - i. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
 - ii. the relief if granted is the minimum necessary to achieve the desired result;
 - iii. the property will otherwise be developed consistent the purpose of this ordinance, the intent of the underlying Zoning District and this Overlay District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;
 - iv. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and.

- v. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

5. Parking

- i. All onsite parking shall be provided either underground, setback a minimum of 20-ft behind the façade of building at the ground level, or above the ground floor, and shall participate in any Downtown Parking and Transportation Management District.
- ii. Entrances to parking areas and structures shall be located along a secondary street frontage where available.
- iii. The paved portion of vehicular entrances to parking areas and structures shall not exceed 24-ft clear width, and entrances to parking structures shall not exceed 16-ft clear height at the street frontage.
- iv. At least one pedestrian route from all parking areas and structures shall lead directly to a street Frontage (i.e., not directly into a Building).
- v. Any surface parking not within a parking structure shall be setback a minimum of 5-feet from any side or rear property line.
- vi. All structured parking with frontage on any portion of a public street shall be screened as follows:
 - a. The required setback between the parking and the public street at the ground level must be occupied by an active use (such as, but not limited to, residential, retail, office, recreational or services). This requirement shall not apply to parking along a secondary street frontage or located either entirely below-grade or above the ground floor where parking may come right up to the building's perimeter.
 - b. Where upper stories of structured parking are located at the perimeter of a building, they must be screened so that cars are not visible from ground level view from adjacent property or adjacent public street right-of-way.
 - c. All floors of a parking structure fronting a public street must be level (not inclined), and any sloped ramps between parking levels must be setback a minimum of 20-ft from the street-facing building façade and shall not be discernible along the perimeter of the parking structure.
 - d. Architectural and vegetative screening shall be used to articulate any street-facing building façade, and to hide parked vehicles and shield overhead lighting and vehicle headlights from the street and adjacent properties. Ground floor facade treatment (building materials, windows, and architectural detailing) must be continued on upper stories.

Comment [DEW19]: Do we still want/need this?

6. Signs

A master sign plan pursuant to Article 7 Part 3 is required for all sites occupied by more than three tenants where all signs must meet the requirements of the master sign plan. The master sign plan must establish standards of consistency as applicable of all signs to be provided on the subject property with regard to:

- Colors;
- Letter/graphics style;
- Location and Sign Type;
- Materials;
- Methods of illumination; and/or
- Maximum dimensions and proportion.

In addition to the flexibility from the requirements of Article 7 provided under Sec. 7.3.4, the following shall also be permitted when incorporated as part of a master sign plan in the DMUC Overlay:

i. Projecting Signs: One projecting sign may be permitted for each ground floor use provided such sign:

- a. does not exceed 8 square feet in area;
- b. does not project more than 4 feet from the building façade on which it is attached;
- c. has its lowest edge at least eight (8) feet above any pedestrian way;
- d. has its highest edge no more than eighteen (18) feet above any pedestrian way; and
- e. Any encroachment into the public right-of-way must also be approved by the City Council.

ii. Marquee Signs: One marquee sign per primary street frontage may be permitted provided such sign:

- a. is located above the principal Building entrance;
- b. projects a minimum of 6 feet from the building façade on which it is attached but in no event more than 10 feet and 3 feet from the curb;
- c. has its lowest edge at least 9'6" above any pedestrian way;
- d. has its highest edge no more the lesser of the floor level of the third story or 35 feet above any pedestrian way;
- e. is no more than 40 feet in width;
- f. may contain an area for manual changeable copy that does not exceed 30 percent of the area of the sign face on which it is located or 32 square feet, whichever is less; and
- g. Any encroachment into the public right-of-way must also be approved by the City Council.

iii. Canopies and Awnings:

Comment [DEW20]: Consistent with Church Street Marketplace and proposed FBC. Currently limited to only 4 sf.

Comment [DEW21]: This remains incomplete...

7. Green Buildings

New development in the DMUC Overlay shall be built to the standard of LEED Gold Certification as evidenced by the submission of a completed LEED checklist by a LEED AP at the time of application, and shall use all reasonable efforts to obtain such final certification upon project completion. New development in the DMUC Overlay shall also strive to achieve the energy reduction goals outlined in the “Architecture 2030 Challenge” as evidenced by...

Comment [DEW22]: This remains incomplete

Sec. 5.2.6 Building Height Limits

(a) *unchanged*

(b) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a ~~non-conforming existing structure~~ Principal Building exceeding ~~thirty-five (35) feet~~ the maximum permitted Building height as of January 1, 2008 may exceed the maximum permitted Building height of the zoning district ~~thirty-five (35) feet~~ subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing ~~non-conforming Principal Building structure~~.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.
4. Ornamental and symbolic features of buildings and structures, including towers, spires, cupolas, belfries and domes, where such features are not used for human occupancy or commercial identification, are ~~also~~ exempt from specific height limitations and shall be subject to the design review provisions of Art. 3 and 6.
- 4.5 Stairs, Elevator Towers and Mechanical Equipment shall be allowed to encroach beyond the maximum building height by no more than 10-feet and provided they do not exceed 20% of the roof area.
Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods.
Where incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply.
5. The footprint of such architectural features shall not exceed ten percent (10%) of the total roof area.

- 6. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.
- 6.7. The administrative officer may allow for up to a 10% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum.

Comment [DEW23]: Important changes to screening requirements for rooftop equipment and flexibility in amount and numerical building height limits. This is duplicated in the NAC-StJ amendment as well – see which gets adopted first.

DRAFT

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Burlington Planning Commission DRAFT Minutes

Tuesday, April 26, 2016 - 6:30-8:00 P.M.

Conference Room #12, Ground Floor, City Hall, 149 Church Street

Present: B Baker, Y Bradley, E Lee, A Montroll, H Roen, J Wallace-Brodeur

Absent: L Buffinton

Staff: D White, M Tuttle, E Tillotson, S Gustin, K Sturtevant, W Ward

I. Public Forum

Y Bradley opened the public hearing at 6:35 p.m.

Barbara Headrick, resident of South Prospect St: Speaks about bakeries along major roads per a request for amendment to the CDO. Asked for the amendment to be withdrawn or modified so that residential areas, particularly on S. Prospect where retail is not desired, are not impacted. Advised the Commission to be thoughtful of residential areas surrounding the university where institutional zoning does not exist on both sides of the street. UVM should not lease out land if it is not serving the University's educational purposes. The CDO says that historical use of properties should be considered.

M Tuttle: Noted that not all communications at table were transmitted via email prior to the meeting.

II. Report of the Chair

Y Bradley: Thanked the Long Range Committee for time and effort it has given working on planBTV South End. Has a prepared statement from Sharon Bushor, City Councilor, which he read in the event she is not able to make the meeting.

III. Report of the Director

D White: April 25, 2016 Council meeting was for public comment on the Burlington Town Center Predevelopment Agreement, which City Council may act on at May 2 meeting. The Planning Commission will dive into proposed zoning amendment when the agreement has been approved. Another major zoning amendment will be for the St Josephs' Orphanage property on North Avenue; intent is to create a NAC zone. Permits are on track with this time last year. FBC Committee discussing public engagement for June to collect feedback on the draft code.

IV. Agenda

D White: F von Turkovich, who submitted the proposed amendment to permit bakeries in the Institutional Zone, has requested to withdraw the request.

Y Bradley: Take it off this agenda and Commission to-do list. Opened Fletcher Place rezoning discussion until the 7pm public hearing.

V. ZA-16-10: Waivers from Parking Requirements/Parking Management Plan Public Hearing

Y Bradley: Opened the public hearing at 7:00, and recused himself as the agent for the YMCA. B Baker chaired.

E Lee: Recused herself as a neighbor of the YMCA.

S Gustin: Two parking amendments on this agenda—only amendment regarding waivers is considered in public hearing. Initiated by the YMCA, amendment was originally a request to establish a new land use category, with its own parking requirements and provisions for waivers. Instead, this amendment applies City-wide and opens the door somewhat for non-residential uses to apply to the DRB for parking waivers.

Barbara Headrick: Six months ago Mayor proposed eliminating requirements for downtown parking. This proposal conflicts with City Council's decision to forego parking amendments until studies were done.

E Lee: As a citizen, very supportive of YMCA project and support the waiver proposal. Concerned that this proposal might go to the City Council and not be accepted, which could delay the YMCA.

S Gustin: Current proposal was made in a meeting a month ago and if it passes during this public meeting, it will advance to the City Council. If the Council is not receptive, the YMCA's original proposal is still an option to consider.

B Headrick: This erodes the public trust, by proposing something that has already been rejected.

H Roen: Under proposed amendment, wouldn't the request for a waiver go through the DRB process?

S Gustin: Yes. It makes sense to utilize this method, and tweak the waivers based on rationale, since the DRB process and standards are already in place.

A Montroll: Supports this based on using existing process for waivers and parking management plans, but has same concerns as E Lee.

S Gustin: Plan C is to bring back the proposal from the YMCA for the Commission to consider again.

B Headrick: This is too broad. Developers should not be able to use on-street parking in neighborhoods to meet parking demand.

A Montroll: The blanket approach to removing all parking requirements was rejected. This is different because it maintains parking requirements, and focuses on individual property/use needs when granting waivers. It's consistent with concerns about parking requirements, but rather than one-size-fits-all, it's flexible.

M Tuttle: Clarified that amendment does not change waivers for residential uses. While applies city-wide, not all districts permit non-residential uses, so limited in its ability to be taken advantage of.

B Headrick: Larger entities will propose projects where overflow parking spills into residential areas.

D White: Institutions operate under campus-wide parking management plans.

B Headrick: UVM is proposing that parking is moved to periphery of campus, onto residential streets.

L Ravin, UVM Planning Office: University is trying to reduce demand, increase mass transport, etc. Parking on periphery means on edge of campus, on UVM property, not in neighborhoods.

E Lee: YMCA scenario seems similar to the King Street Center.

S Gustin: There is a different parking standard for the YMCA that is somewhere between community center and fitness center. King Street Center was able to retain a parking non-conformity but also had to provide off-site parking, which is not being used.

D White: Parking management plans are not permitted to count on-street parking spaces to satisfy their parking need.

J van Driesche, Catherine Street resident and Deputy Director of Local Motion: Local Motion urges the Commission to support this change. Streets as overflow parking is a good use, compared to using large pieces of land for parking, which could be parks, schools or some other use. Parking does not build vibrant, people-

oriented projects. Proposal gives flexibility and removes handcuffs. Going forward, emphasis needs to be on walking and biking which in-turn will facilitate more flexible parking.

S Bushor, City Councilor, Ward I: Concerned about whether or not new developments are accurately projecting parking demand for growth/expansion of uses. Actually support a waiver of up to 100%, but concerned about administrative officer approval and whether input from the public will be excluded.

Michael Long, resident of Ward 1: Philosophically support proposal, but instances today where the demand outstrips supply. Need to change behaviors; a waiver program will not accomplish this goal. Neighborhoods are being choked by automobiles.

D White: Describes existing provision for administrative officer approval of a waiver. The Commission will soon see another amendment to change parking requirements to be based on number of bedrooms, rather than number of units.

E Lee: There is no follow-up on parking management plans. Needs to be dealt with more holistically, but do support removing parking requirements.

S Gustin: Recently surveyed properties with approved parking management plans, found that most were adhering. Waivers are sparsely given, now have a requirement for an annual report from owner, and department is making concerned efforts to collect data. Only change proposed is for non-residential uses to be eligible for a 90% waiver, raised from 50%. Text about residential waivers is not new.

B Baker: Parking management plans could be more specific, especially in relation to timing of demand.

S Gustin: A three year review to assess need is under way as a method to evaluate how uses evolve.

D White: A time line with evaluation is a good idea; however, if a use expands, a new permit would be needed based on the evaluation of parking needs.

J Wallace-Brodeur: Many places in the city that don't have parking. Need to have some flexibility in the process for trying to address circumstances where things don't fit in a box, which is why it is important to have the waiver process. Because it has to go to the DRB, there is a public process and established requirements. This should move forward.

A motion by A Montroll, seconded by J Wallace-Brodeur, to forward this amendment to City Council for consideration was approved by B Baker, A Montroll, H Roen, and J Wallace Brodeur with Y Bradley and E Lee abstaining.

VI. Proposed CDO Amendment: 15 Year Statute of Limitations

This item was deferred to a future meeting.

VII. Proposed CDO Amendment: Off Site Parking

This item was deferred to a future meeting.

VIII. Proposed CDO Amendment: Fletcher Place Rezoning

S Gustin: Map in packet reflects Planning Commission desire from last meeting for properties on Fletcher Place to be rezoned RM, except the UVM Trinity Campus property mid-block. Agenda included excerpt of use and dimensional tables for comparison between Institutional and RM.

Y Bradley: Read a communication from Sharon Bushor, regarding owner-occupancy in boarding houses, addressing uses on dead end streets, and buffer zones or a residential transition district.

F von Turkovich: Distributed a memo and map regarding the proposed map change. Reiterated a conversation with staff concerning property owned by Ms. Reid at 49 Fletcher Place, who intends to sell him nearly one acre of her property. Questioned why the Commission is considering this amendment, and expressed support for an amendment to protect the livability of area, not one that is part of a plan to suppress

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his project. This change will impact ability to use his property, and will have implications for Ms. Reid's investment as well. Considers this to be spot zoning and feels it is important that the Commission not put land in a zone which will destroy the viability of a current project.

E Lee: The dimensional requirements are essentially the same, rezoning would be a loss of 30 units.

F von Turkovich: Memo suggests three uses that are permitted in the Institutional Zone that are not permitted in RM that he suggests the Commission add if they approve the rezoning.

B Hickok, 26 Fletcher Place: Political risk is part of an investment and rezoning is a political risk. Contends the owners' financial risks are not a consideration of this meeting.

L Ravin: Reiterated UVM's opposition to rezoning of the land at 50 Fletcher Place. Parcel is contiguous with other UVM land, and prefers that zoning is consistent for all university property.

N Reid, 49 Fletcher Place: Purchased 1.5 acres of land with full awareness that she may be able to sell some for development. The land is valuable, and while RM would help maintain neighborhood, would like to see the present Institutional zoning retained.

R Butani, 31 Fletcher Place: Support the rezoning as recommended by staff and the Commission.

S Bushor: Acknowledged work that Scott and staff have done on the proposal. Supports the map presented in the packet, and feels the change from institutional to RM offers many appropriate protections. Fletcher Place was developed as RL. There are other small streets in area that are zoned RL, so the change is in keeping with the existing uses and still retains a fair amount of value to the property owners.

B Hickok: It is not a concern of this board to consider anyone's financial investment. 50 Fletcher Place has been residential ever since he has lived there. Rents are extremely high due to being rented by bedroom. UVM has added 3,000 students without planning for residences. UVM has not addressed housing and off-campus behavior but he has to live with it. Opposed to any special consideration for UVM.

C Long: Why are residential lots zoned institutional? Support this rezoning.

E Lee: Why can unbuildable land be used for density calculations? Should only consider buildable land.

D White: Require buildable land to be considered in calculating density of residential areas, but not in mixed use and institutional districts; in these areas there is an expectation that there will be denser development so the land can be used for the calculation of density.

Y Bradley: This is a separate subject for another time.

S Gustin: Seems to be agreement among parties about applying RM on Fletcher Place, but not on the location of the zoning district boundary.

F von Turkovich: Proposed map submitted would protect the frontage of Fletcher Place, but is otherwise arbitrary.

R Butani: It appears that F von Turkovich's proposal is spot zoning.

S Butani: It is not appropriate for institutions to be able to take advantage of a residential area.

F von Turkovich: In the Institutional zoning district, most properties are not owned by institutions. Appear to be hung up on the term "institutional."

S Bushor: Not supportive of Mr. von Turkovic's proposed map.

Y Bradley: Considering all the comments, it appears that the Commission is not ready to act on this issue. In the interest of time, it should come back to the full Commission at the next meeting.

A motion by A Montroll, seconded by B Baker, to continue this item at the next meeting was unanimously approved.

A motion by B Baker, seconded by H Roen, to move the remaining agenda items to the next meeting was unanimously approved.

IX. Proposed CDO Amendment: Bakeries in the Institutional Zone

Removed from agenda.

X. Committee Reports

Long Range Planning Committee: Goal for planBTV South End Plan is to wrap up and get it out for another public review by the end of the Fiscal Year.

Ordinance Committee: B Baker reports the committee will meet the following day.

Executive Committee: D White reports the committee will meet the following day.

FBC Committee: A Montroll reports the Commission is scheduling a joint City Council and Planning Commission meeting, and on NPA schedules. Opening their work up to the larger public process.

XI. Commissioner Items

H Roen: Would be helpful to have presentation on spot zoning.

D White: Will send materials previously shared by K Sturtevant.

B Baker: Bring a copy of the full zoning ordinance to future meetings for reference.

E Lee: April 27, 2016 will be the first meeting regarding The Neighborhood Project, which is one of 22 proposals from the Housing Action Plan, focused on neighborhood stabilization.

Y Bradley: Preservation Burlington has suggested to him that a model of the proposed Burlington Town Center might be valuable. Should discuss at the next meeting.

XII. Minutes/Communications

On a motion by A Montroll, seconded by B Baker, the Commission unanimously approved the minutes of April 12, 2016 and accepted the communications and placed them on file.

XIII. Adjourn

On a motion by A Montroll, seconded by B Baker, the Commission unanimously voted to adjourn at 8:22 pm.



Y Bradley, Chair

Signed: _____, 2016



E Tillotson, Recording Secretary